

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE NINTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B. SUDERSHAN REDDY

and

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 4294 of 2005

Between:

K.Ramesh, S/o.Kantaiah,
Sarpanch, Gopalpur Gram Panchat,

Hanamkonda Mandal, Warangal District.

..... PETITIONER

AND

- 1 The District Panchayat Officer, Warangal District, Warangal.
- 2 The Government of Andhra Pradesh represented by the

Principal Secretary, Panchayat Raj Department, Secretariat,

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ, or order or direction more particularly in the nature of writ of Mandamus to declare the section 19 (3) of the A.P. Panchayat Raj Act, 1994 is unconstitutional and violative of Articles 14 and 21 of the Constitution of India as there are no guidelines issued under the Act and in consequence thereof to set aside the show cause notice bearing Rc.No.4912/2004/A2-A3, dt 24.2.2005 is without jurisdiction and violative of Articles 14 and 21 of the Constitution of India.

For the Petitioner: MR. V.V. Narasimha Rao, Advocate.

For the Respondents: GP for Panchayat Raj & Rural Dev.

The Court made the following :

ORDER: (per Sri B. Sudershan Reddy, J)

This writ petition is directed against the show cause notice dated 24-2-2005 issued by the District Panchayat Officer, the 1st respondent herein requiring the petitioner, Sarpanch of the Gopalpur Gram Panchayat to explain as to why action should not be initiated against him under Section 19(3) of the Andhra Pradesh Panchayat Raj Act, 1994 for having given birth to third child after the specified date under the Act.

In the affidavit filed in support of the writ petition, various objections have been raised challenging the legality and validity of the very show cause notice issued to the petitioner. We are not inclined to examine the issues raised by the petitioner for the present in this writ petition since it is open to the petitioner to raise all the objections before the District Panchayat Officer, except the objection relating to the constitutional validity of the said Act. The objections raised by the petitioner are to be taken in to consideration and appropriate orders are to be passed by the District Panchayat Officer in accordance with law and the same shall be communicated to the petitioner. That in case, the order to be passed by the District Panchayat Officer adversely effects the claim of the petitioner and his right to continue in the office, it shall always be open to him to avail such remedies as may be available to him in law, in which event the matter may have to be considered on its own merits. The petitioner in such an event is entitled to raise all such objections that may be available to him in law including the objections raised in this writ petition.

The District Panchayat Officer is directed to provide an opportunity of being heard to the petitioner. It is needless to observe that the petitioner shall be entitled to continue

in the office as long as no final order is passed against him.

The Writ Petition is accordingly dismissed.

(B. Sudershan Reddy, J)

09-03-2005

(C.V. Ramulu, J)

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To

- 1 The District Panchayat Officer, Warangal District, Warangal.
- 2 The Principal Secretary, Panchayat Raj Department,

the Government of Andhra Pradesh, Secretariat, Hyderabad.

3 Two CCs to the Government Pleader for Panchayat Raj and
Rural Development, High Court of Andhra Pradesh, Hyderabad
(OUT).

4 2 CD copies.

5 1 CC to MR.NARASIMHA RAO.